

Our judicial system is not perfect. It is because the citizens have come up against the arbitrariness of some of the appointed judges and the political activity of others that these changes have been sought.

I want to say again that certainly the state civil service system offers an opportunity for the appointment of qualified commissioners. Moreover, I still feel as many of the delegates have voted here today that we must not put too much power in the hands of any one branch of government, be it judiciary or what not. I feel that this amendment has great merit and I speak for it.

THE CHAIRMAN: The Chair recognizes Delegate Cicone to speak in opposition to the amendment.

DELEGATE CICONE: I am a non-judicial member of our Committee. I think yesterday I was referred to as a lawyer's spouse. Maybe that makes me a quasi-judicial.

For many weeks I have been listening to testimony, people we have heard, as to inferior courts, I think that name probably is indicative of a situation that is existing now in our lower court systems and especially at the magistrate court level.

I heard stories that they would be funny if they were not so tragic, how some forms of justice or alleged justice is dispensed.

This happens, as I see it, to the greatest number of people that are exposed to these particular magistrate courts. I can imagine the impression they take away of our administration of justice. These commissioners I feel are a step in the right direction to come under the court system. We have been down here trying to draw a sharp definitive line between our branches of government. All day today I have listened to phrases that I certainly do not agree with, power grabs.

Maybe it just depends on which side of the fence you are sitting. Witness after witness asked us, urged us, very competent members of our legislature asked us to make reforms at this level. They said if we did not do it the legislature would not. If reform was needed up to this time and the legislature had the power to do it, why had it not been done up to this time?

I think we should take it out of the legislature and put it in the judicial, and draw a line where the responsibility will lie.

As I was listening to the legislative article, nowhere in that article did it suggest

that any other branch elect its officers or employ any of their staff. That would help them with the administration of the legislature.

THE CHAIRMAN: You have a little less than one-half minute.

DELEGATE CICONE: It is inconceivable to me that we would give a judge the job of administering his court and then not allow him to pick the most qualified people to help him do the job he must do; otherwise, there would be no responsibility. To whom would these commissioners be responsible, if not to the court, to the legislature? I submit to you this chain of responsibility should not be broken. I think each branch should be able to keep its own house in order.

I urge you to vote down this amendment.

THE CHAIRMAN: Delegate Weidemeyer, do you desire to speak in favor of the amendment?

You may proceed.

DELEGATE WEIDEMEYER: I want to point this out: that when I hear it said that the district judge has to select these men to help him do his job, I want to point out, Mr. President, that the job of any judge is to adjudicate. The job of the judge is not to go out and issue warrants. Lord help this country if our judges go out and say who must be brought in before them to be tried.

I know when I was magistrate I had some policemen tell me they were not satisfied with my decisions. I said your job is to look after violations; my job is to try the case. So therefore, I think that we are going off on the wrong track if we say these committing magistrates are there merely to help the judges. They are there to perform a separate function, that is to issue warrants and things like that. They have nothing to do with the trial of the case. I suggest to you that anyone who makes a mistake in issuing a warrant could just as easily have made it because he was appointed by the judge as if he were appointed by the governor.

I think when we get into where the judges are making appointments then I think we are eroding an old principle of our state government, the clear separation of powers. I think when we start in a small way we can gradually extend it in a larger way. I think if you like the principle, if you think the principle of separation of powers is good, you ought not erode